

Muttuchidambara Vs. Karuppa

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Court : Chennai

Decided On : Jan-28-1884

Reported in : (1883)ILR7Mad382

Judge : Charles A. Turner, Kt., C.J., ;Kernan, ;Kindersley, ;Muttusami Ayyar and ;Hutchins, JJ.

Appellant : Muttuchidambara

Respondent : Karuppa

Judgement :

Charles A. Turner, Kt., C.J., Kernan, Kindersley, Muttusami Ayyar and Hutchins, JJ.

1. The question for decision is whether the provisions of Section 265 of the Code of Civil Procedure, requiring that a decree for the partition of an estate paying revenue to Government be executed through the Collector of the District, are applicable to raiyatwari holdings. This section corresponds with Section 225 of the Code of 1859. It was held by the Sadr Court that raiyatwari holdings were not estates paying revenue to Government, and this construction has always been acted upon in this Presidency. It would unsettle a large number of titles to adopt a different construction now, and whatever we might have thought if the matter had come before us as res Integra, we are not prepared to disturb a practice so long established.

2. The orders of the District Judge and the Munsif must be set aside and the Munsif directed to pass fresh orders. The costs of the appeal will abide and follow the result.

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